IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3042 OF 2004

IN

SUIT NO.2958 OF 2004

Mrs.Shalu Gopal Ahuja & others. ... Plaintiffs.

vs.

Amar Rohira & Another. ... Defendants.

And

UTI Investor Service Ltd. & others. ...Respondents.

Ms.Snehal Paranjpe i/b. M/s.Mohana Nair Associates, for Plaintiffs.

Mr.C.S.Balsara with O.A.Das i/b.KMC Legal Venture, for Defendant no.1.

Ms.Trupti Sanghavi i/b. Ms.Asha Bhutia, for Defendant no.5.

CORAM: D.K.DESHMUKH,J.

DATED: 22nd September,2005

P.C.:-

1. The learned Counsel for defendant no.1 states that out of the estate of the deceased, he is in possession of the assets which are described by him at “Exhibit D” to his affidavit dated 13.9.2005 and

that he will not deal with those assets or transfer them without seeking the leave of this Court. He further states that so far as the assets which are described at "Exhibit E" to the affidavit dated 22.9.2005 of Plaintiff no.3 which is described as Sur-rejoinder are concerned, the defendant no.1 is not in possession of that assets except the assets described at item no.15 in "Exhibit E" and that therefore, there is no question of defendant no.1 in dealing with those assets. He further stated that even if in future he comes in possession of those assets, he will not deal with the same without seeking the leave of this Court. The Statement is accepted, with liberty to defendant no.1 to apply for modification of the statement after the suitable order is made in the probate proceedings.

2. So far as the premises described at item no.16 in "Exhibit A" to the plaint i.e. the tenanted premises are concerned, the defendant no.1 states that he is in possession of that premises and that he will not transfer them or surrender the said premises without seeking the leave of this Court. The statement is accepted with liberty to defendant no.1 to apply for modification or withdrawal of this statement in case any order is made either by the Small Causes Court or by the City Civil Court in the proceedings which are pending in those Courts in relation to that premises.

3. The learned Counsel appearing for defendant no.1 states that so far as the bank accounts which are listed in “Exhibit D” to the affidavit of defendant no.1 dated 13.9.2005 are concerned, the defendant no.1 will not deal with those bank accounts, but if any amount is credited to those accounts on account of dividend received from the securities, then those amounts of dividends will be credited in those accounts.

In view of these statements made by defendant no.1, the notice of motion is disposed of.